

MINUTES

The Tennessee State Board of Cosmetology held a meeting on March 5, 2007 at 9:00 a.m. CST, in Nashville, Tennessee.

The following members were present: Linda Colley, Chairman, H. D. Adcock, Vice Chairman, Hazel Moore, June Huckleby, Lee Bowles, Judith Jackson, Janet Wormsley and Judy Golden. Ernestine Peete was not present.

Others present were: Beverly Waller, Executive Director, Kathryn Wiseman, Staff Attorney and Debbie Gean, Administrative Assistant I.

Chairman Linda Colley called for roll call.

Chairman Linda Colley welcomed new board member Janet Wormsley.

MINUTES

MOTION was made by Ms. Judy Golden and seconded by Ms. June Huckleby to accept the minutes from the February 5, 2007 board meeting. Motion carried unanimously.

APPEAR BEFORE THE BOARD

Shonell Griffith – PSI, Test-Site Supervisor – Present. Ms. Griffith was asked to speak with the board concerning the issue of odorless/low odor products for the manicurist examination. Ms. Griffith discussed with the board a kit that the Texas State board is using. Ms. Griffith stated that the cost of the kit has not yet been determined. The board stated that a solution was needed so the students will know what to bring to the testing site, so that they are not turned away because of the product they have brought with them. Some students have to pay for the examination again, due to being turned away for the products they have brought. The board asked if PSI could present a list of the products in which they can use for the students. Some of the low odor products still have an odor. Ms. Griffith stated that they are concerned with the rater's health. The board asked if Ms. Griffith will research the cost of this product and report back to the board.

MOTION was made by Ms. Lee Bowles and seconded by Ms. Hazel Moore that any student's who aren't allowed to test due to the product, not be charged an additional cost for the examination. Motion carried unanimously.

Callie Leousis – TSU, Director of Continuing Education – Present. Ms. Leousis presented the 2007 Barber & Cosmetology Conference Agenda. The seminar will be held August 12 & 13, 2007.

The board asked that Ms. Leousis return to the next board meeting with update on the agenda.

Jeanne Henson, Cosmetology Instructor and Blain Henley, Assistant Principal and Technology Director from Bristol High School – Present. The Bristol Tennessee City School System is in the planning stages of constructing an on-line, 1 credit introductory course in Cosmetology. Ms. Henson and Mr. Henley are present to get the boards input and support of this course. They presented a handout with the topics that will be covered and what the student can expect to gain from this course.

The board stated advised Ms. Henson and Mr. Henley to contact the directors of the continuing education seminars to speak on this online course. The board thanked them for coming before the board.

Chairman Linda Colley welcomed students from Georgia Career Institute, McMinnville, Tennessee and New Concepts, Cleveland, Tennessee.

Paulino Mendoza – Mexico – Present – Mr. Mendoza sent his application for reciprocity for his cosmetology license. Previously in 2004 he submitted an application also. The social numbers are different on the applications and the board requested he appear at the March meeting.

Mr. Mendoza explained that when he first came to the United States he was given a social security number and once he became a permanent citizen he was given another social security number. Ms. Kathryn Wiseman, Staff Attorney stated that yes, this does occur.

MOTION was made by Ms. Judy Golden and seconded by Ms. Judith Jackson to grant Mr. Mendoza reciprocity for his cosmetology license. Motion carried unanimously with Ms. Hazel Moore passing on the vote.

ADMINISTRATION REPORT

A Cosmetology School Application for change of location for The Beauty Institute which is now located at 7106 Moores Lane, Brentwood, TN. This school has been inspected by Board Member Linda Colley and Inspector Evelyn Burgett and is in compliance with all requirements. Board approval is requested.

MOTION was made by Ms. Judy Golden and seconded by Ms. June Huckleby to accept the application for change of location. Motion carried unanimously.

An application for reciprocity of cosmetology license for Kim Tang was submitted to the office. Certification received from the Kansas Board of Cosmetology states she was licensed by reciprocity in the State of Kansas. Also, Kansas forwarded a memorandum which details a history of disciplinary action taken against Ms. Tang. Ms. Tang was fined five times (May 2000 to September 2006) for employing unlicensed individuals and also once for interfering with the inspection. The three salons owned and operated by Ms. Tang in Kansas are closed. Due to this information provided by the

Kansas Board which Ms. Waller thought would be of interest to the Tennessee Board she is presenting this application for reciprocity for the Board's decision.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. June Huckleby to deny the request for reciprocity and have Ms. Tang take the full examination to become licensed in Tennessee. Motion carried unanimously.

An application for reciprocity of cosmetology license for Natalie Jean Whetzel was presented to the office. Certification from the Department of Professional and Occupation Regulation for the Commonwealth of Virginia state she was initially licensed as a cosmetologist 05/02/1988. Due to record retention requirements, training and examination information cannot be verified. Ms. Whetzel submitted a statement for her work history which does not provide a recent and consistent five (5) year work history in the field of cosmetology. Application submitted for Board's decision.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to have Ms. Whetzel take the full examination to become licensed in the State of Tennessee. Motion carried unanimously, with Ms. Hazel Moore passing on the vote.

An application for reciprocity of cosmetology license for Brittany Flynn was submitted to the office. Certification from the State of Florida only certifies 1,200 hours in the cosmetology curriculum and the attached letter explains they only certify what they require. Enclosed is a letter and transcript from the Bradenton Beauty and Barber Academy she attended in Florida advising that she completed 1,501 hours. The policy of the Board is certification of the documents we use for verification of education. Application submitted for Board's approval on information provided by school.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judith Jackson to approve the request for reciprocity. Motion carried unanimously.

A request for approval for a field trip from Tullahoma Beauty School/Coffee Count Beauty Academy for the Heil Show in Nashville on April 1 & 2.

MOTION was made by Ms. Judith Jackson and seconded by Ms. Judy Golden to approve the field trip. Motion carried unanimously.

An announcement from Tennessee Cosmetology Association Spring and Summer Trend Release- Sunday, March 18, 2007 with the latest Designs for Spring and Summer. It will be held at AmeriSuites-202 Summit View Drive, Brentwood, TN.

An application for reciprocity for a cosmetology license from Abecech Woldearegaye Sorya from Kenya. The only document she was able to provide is a diploma showing she completed the Addis Course in Cosmetology, September 25, 1999 in Kenya. I questioned her as to attendance and she stated she attended school for 1 year, 5 days a week from 8:00 - 4:00 each day.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judith Jackson to have Ms. Sorya take the full cosmetology examination and pass to become licensed in the State of Tennessee. Motion carried unanimously.

A letter from Angela Tarver to the board requesting approval to renew her manicurist license which has an expiration date of 01/31/2000. She is asking to not be required to take the Manicurist reinstatement examination. License that have an expiration date of 3 years and over can only be renewed by the licensee pass the reinstatement examination.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to have Ms. Tarver take the manicurist reinstatement examination to become licensed again in the State of Tennessee. Motion carried unanimously.

Daphne Brooks is requesting an extension from her required attendance of the 2006 Cosmetology Instructor Seminar. Physician statement was provided.

MOTION was made by Ms. Hazel Moore and seconded by Ms. Judy Golden to approve for the extension and have Ms. Brooks attend the 2007 and 2008 Instructor seminar. Motion carried unanimously.

Rajni Gupta from India is requesting reciprocity of her cosmetology license. She did provide her Diploma in Cosmetic Acupressure from the Indian Academy of Acupuncture Science. She attended school from 02/02/1995 to 08/25/1995 and class room hours were 2,900 and apprentice hours were 3,600. In this school you learn nails, hair and skin care. She also questioned Ms. Waller about threading and if it could be performed without a license.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to have Ms. Gupta take the cosmetology examination to become licensed in the State of Tennessee. Motion carried unanimously.

Paula Jean Urban is requesting an extension from the 2005 Instructor Seminar. Ms. Urban does not have a medical statement but states her father was sick with congestive heart failure. Ms. Urban stating that in 2006 she had a heart attack and was not able to do anything due to health. Ms. Urban states that Loretto High School is seeking to add cosmetology to their curriculum and she has a good chance of filling that position, if she could be reinstated. Ms. Urban states that she did not miss the seminars intentionally and will attend 2007 and 2008 seminars or whatever the board requests to reinstate her instructor status.

MOTION was made by Ms. Hazel Moore and seconded by Mr. H. D. Adcock to deny Ms. Urban's request for reinstatement of her instructor's license. Motion carried unanimously.

Mechelle Watson is requesting that she be able to use CryoProbe in her profession. This technology is the latest device for the removal of minor and superficial skin irregularities, such as age spots, warts, cysts and etc.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to deny this request. This must procedure must be done in a doctors office and not a salon. Motion carried unanimously.

An application for a change of name and change of ownership was presented for approval. Creative Design was the name and now the name is Paul Mitchell the School – Nashville is the new name. The previous owner was Kingdom Creations, LLC and the new owner will be Kings Group Holdings, LLC.

MOTION was made by Ms. June Huckleby and seconded by Ms. Judy Golden to accept the change of name and change of ownership and to have Chairman Linda Colley visit the school. Motion carried unanimously.

Shelia Richards from Puerto Rico is requesting reciprocity for her cosmetology license. Ms. Richards attended John Dewy College for fourteen months 30 hours a week and has 1,500 hours in the cosmetology technician program.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to grant reciprocity for Ms. Richards to become a license cosmetologist in the State of Tennessee. Motion carried unanimously.

Consent orders totaled \$3,750.00

Da-Vi Nails

4900 Greenway View Drive #5251
Chattanooga, TN 37411

Violation issued September 21, 2006
Pd \$500.00 on 2-12-07

Oddysey Nails

725 Watkins Road
Maryville, TN 37801

Violation issued August 31, 2006
Pd \$500.00 on 2-15-07

Hung Minh Nguyen

2600 Hixson Pike
Hixson, TN 37343

Complaint
Pd \$500.00 on 2-12-07

Lynn's Nails

3345 Parkway
Pigeon Forge, TN 37863

Violation issued 7-19-06
Pd \$2,000.00 on 3-1-07

MOTION was made by Ms. Judy Golden and seconded by Ms. Janet Wormsley to accept the consent orders. Motion carried unanimously.

STAFF ATTORNEY REPORT

1. Case No.: L06-COS-RBS-2006042511

Complainant states that the “subject stylist standards of business and conduct were below [her] standards of living. She did a horrible job as a stylist and extorted me by charging \$50.00 for absolutely nothing.” Complainant also alleges that Respondent made threatening statements to her in phone messages. Complainant states that Respondent is “unprofessional and exudes a ghetto appearance, low mentality” and that there are children running about the salon.

Respondent received a 98 on the most recent inspection and there have been no other complaints against Respondent. Furthermore, even if the allegations were true, they are not within the scope of the Board’s authority.

Recommendation: Dismiss – write letter explaining why

2. Case No.: L07-COS-RBS-2007051191

Consumer Complainant states that she developed a rash after getting a set of gel nails at Respondent manicure shop. Complainant states that after doing research online she suspected that her rash was caused by liquid methylmethacrylate (MMA). Complainant alleges that she returned to Respondent manicure shop and found chemicals containing MMA in their supply room.

Respondent states that Complainant was upset when she was charged an additional fee for repairing a broken nail on her third visit. Respondent also states that Complainant did not go to the supply room to his knowledge

A cosmetology inspector searched Respondent’s supply room on March 2, 2007 and found no products containing MMA. The inspector told me that products using MMA are not used for gel nails, only for acrylics.

Recommendation: Dismiss

3. Case No.: L07-COS-RBS-2007051171

Complainant alleges that her hair fell out after she had a “27-Piece” weave applied to her natural hair at Respondent cosmetology shop. Complainant states that she removed the hair piece herself because it was itching. Respondent states that Complainant used clippers on her hair when she removed the weave, ergo the bald spot. Respondent alleges that Complainant has made threatening phone calls to the shop; the police have been notified.

Recommendation: Dismiss

4. Case No.: L06-COS-RBS-2006036861

September 14, 2006 Notice of Violation provides that an inspector found the following violations at the school: equipment not in good working order; knob on shampoo bowl is broken; floor needs mopping; manicure room unkempt, dirty and manicure tools on floor; classroom needs cleaning; rooms not adequately lighted; instructor in closed office while students performing services on customers.

Linda Colley, Kathryn Wiseman and Respondent participated in an informal teleconference on February 20, 2007. Respondent stated that the inspector has a problem with her school because it is not new and, although functional, her equipment is not pretty. Respondent stated that the students frequently escort customers to the front desk before putting away their manicure tools. Respondent stated that she has been a licensed cosmetology instructor for 18 years and has owned other schools in Tennessee without problems.

A review of the school's inspection file shows that the inspector frequently visited this school and conducted more stringent than necessary inspections.

Respondent school owner is planning to sell her school and currently has an interested buyer.

Recommendation: Letter of Warning re: students leaving implements out

MOTION was made by Ms. Judy Golden and seconded by Mr. H. D. Adcock to accept the recommendations on #1 thru #4. Motion carried unanimously.

5. Case No.: L07-COS-RBS-2007049771

January 19, 2007 Notice of Violation states that Inspector found an unlicensed individual applying acrylic nails at Respondent manicure shop. The individual took the manicure exam in February 2005 but did not pass.

Recommendation: Formal Hearing (\$500 civil penalty)

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to accept the recommendation. Motion carried unanimously.

6. Case No.: L07-COS-RBS-2007049511

January 24, 2007 Notice of Violation states that shop was doing business with an expired shop license. Respondent renewed the shop license on January 29, 2007. An operator,

who was not present at the time of inspection, had an expired license posted at her station.

Recommendation: Close with Letter of Warning

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to accept the recommendation. Motion carried unanimously.

7. Case No.: L06-COS-RBS-2006046031

This complaint is a duplicate of complaints L06-COS-RBS-2006038141 & 2006046391, which were presented in February.

Recommendation: Administratively Close

8. Case No.: L05-COS-RBS-2005027791

Anonymous Complainant reported that Respondent allowed unlicensed individuals from Spain and France to work in her shop on Sundays. An investigation was conducted and the investigator did not find any evidence of unlicensed conduct.

Recommendation: Dismiss

MOTION was made by Ms. Judy Golden and seconded by Ms. Judith Jackson to accept the recommendations on #7 & #8. Motion carried unanimously.

9. Case No.: L07-COS-RBS-2007051681

February 15, 2007 Notice of Violation states that Inspector found Respondent operating a shop with an expired shop license (August 2006) and an expired operator license (unknown). Respondent also had a dog in the shop. Respondent has since renewed both licenses.

Recommendation: Letter of Warning re: dog / \$250 civil penalty for expired licenses

10. Case No.: L06-COS-RBS-2006041161

Complainant alleges that he worked as acting manager of Respondent salon for months without compensation. Complainant also alleges that he quit his job because of a hostile work environment: employees were forced to work through their breaks and work "off the clock". Complainant filed a claim for unemployment benefits and the Department of Labor & Workforce Development found him eligible because the hostile environment caused him to quit.

Finally, Complainant alleges that his supervisor was practicing cosmetology without a license; however, she does have a current Tennessee license.

Recommendation: Dismiss

11. Case No.: L07-COS-RBS-2006046601

Complainant states that her cuticle was cut during a manicure she received at Respondent manicure shop. Complainant states that the cuticle clippers were not submersed in barbicide or alcohol. The complaint was filed in December 2006 but Complainant did not say when she visited Respondent manicure shop.

Respondent replied that Complainant's cuticle was cut because she wasn't paying attention to the manicurist and she moved her hand suddenly. Respondent received a score of 100 on the most recent inspection (August 4, 2006).

Recommendation: Letter of Warning

MOTION was made by Ms. Judith Jackson and seconded by Ms. Judy Golden to accept the recommendations on #9 thru 11. Motion carried unanimously.

12. Case No.: L06-COS-RBS-2006013931

Complainant alleges that the Respondent has been operating a cosmetology shop and practicing cosmetology out of her house for three (3) years. Investigation revealed that the Respondent is licensed as a cosmetologist, but does not hold a license as a cosmetology shop owner. Investigator could not find cosmetology services being performed from the Respondent's home without a cosmetology shop license. The Board voted to dismiss the complaint.

Cosmetology Inspector reported the he called and made an appointment with Respondent; so we conducted a second investigation. The investigator spoke to Respondent who stated that she was a licensed cosmetologist and had a business license issued by the county. Respondent said that she thought she had the proper licenses. She does not advertise her shop and only receives referrals from friends and family.

Respondent called me and we reviewed the requirements for a shop license. Respondent said that she would be applying for her shop license and would cease operation until that time.

Recommendation: Letter of Warning

13. Case No.: L06-COS-RBS-2006034901

Complainants allege that they are being mistreated by the instructors and the director at Respondent cosmetology school. Complainants claim that the school is over-crowded;

students are not provided adequate supplies (e.g. towels); and, the school is always dirty. Complainants also claim that they do not get all of their hours credited.

An investigator and an inspector visited the school. They did not find any evidence of over-crowding, unsanitary conditions or supply shortage. Students are clocked in and out at the front desk by swiping an id card at a computer. The receptionist clocks the students in and out. Students are given a weekly report of the hours logged and can make corrections if necessary. The school has a new director since the date of this complaint.

Recommendation: Dismiss

MOTION was made by Ms. Judith Jackson and seconded by Ms. Janet Wormsley to accept #12 & #13. Motion carried unanimously.

The board discussed changes in the rules.

MOTION was made by Mr. H. D. Adcock and seconded by Ms. Judy Golden to send out a notice on the rulemaking hearing. Motion carried unanimously.

OTHER BUSINESS

After discussion the board voted to that “Students enrolled in cosmetology schools may attend school for more than 8 hours per day but not exceed 48 hours a week.”

MOTION was made by Ms. Janet Wormsley and seconded by Ms. Judith Jackson to adjourn the meeting.